

ANNOTATED SUPPLEMENT TO THE COMMANDER'S HANDBOOK ON THE LAW OF NAVAL OPERATIONS CONTENTS

	<i>Page No.</i>
INTRODUCTORY NOTE	iii
CONTENTS	v
ABBREVIATIONS AND RECURRING CITATIONS	xxi
PREFACE	
SCOPE	xxxv
PURPOSE	xxxv
APPLICABILITY	xxxvi
STANDING RULES OF ENGAGEMENT (SROE).	xxxvi
INTERNATIONAL LAW	xxxvii
Practice of Nations.	xxxvii
International Agreements.	xxxvii
U.S. Navy Regulations	xxxviii

The opinions shared in this paper are those of the author and do not necessarily reflect the views and opinions
of the U.S. Naval War College, the Dept. of the Navy, or Dept. of Defense.

PART I—LAW OF PEACETIME NAVAL OPERATIONS

CHAPTER 1 LEGAL DIVISIONS OF THE OCEANS
 AND AIRSPACE

1.1	INTRODUCTION	1
1.2	RECOGNITION OF COASTAL NATION CLAIMS	2
1.3	MARITIME BASELINES	3
1.3.1	Low-Water Line	5
1.3.2	Straight Baselines	5
1.3.3	Bays and Gulfs	7
1.3.4	River Mouths.	12
1.3.5	Reefs	13
1.3.6	Harbor Works	13
1.4	NATIONAL WATERS	14
1.4.1	Internal Waters	15
1.4.2	Territorial Seas	15
1.4.3	Archipelagic Waters	18
1.5	INTERNATIONAL WATERS.	19
1.5.1	Contiguous Zones.	20
1.5.2	Exclusive Economic Zones	20
1.5.3	High Seas	23
1.5.4	Security Zones	23
1.6	CONTINENTAL SHELVES	23
1.7	SAFETY ZONES.	25
1.8	AIRSPACE.	25
1.9	OUTER SPACE	26

ANNEXES

A1-1	U.S. Statement in Right of Reply	27
A1-2	Letter of Transmittal & Letter of Submittal	32
A1-3	U.S. Oceans Policy Statement	43
A1-4	Maritime Claims of the U.S.	46
A1-5	Consolidated Glossary of Technical Terms	51
A1-6	U.S. Territorial Sea Proclamation	78
A1-7	U.S. EEZ Fact Sheet	80
A1-8	U.S. EEZ Proclamation	83

FIGURES

1-1	Straight Baselines	8
1-2	The Semicircle Test	9
1-3	Bay With Islands	10
1-4	Bay With Mouth Exceeding 24 Nautical Miles	10
1-5	Territorial Sea of Islands and Low-Tide Elevations	17
A1-1	Legal Regimes for Oceans & Airspace	85
A1-2	Continental Shelf Delimitation.	86
A1-3	Depth of Sediment Test	86

TABLES

A1-1	Parties to the 1982 LOS Convention	87
A1-2	Parties to the 1958 Geneva Conventions	90
A1-3	States Delimiting Straight Baselines	94
A1-4	Claimed Historic Bays	96
A1-5	Claimed Territorial Seas	97
A1-6	Expansion of Territorial Sea Claims	100
A1-7	Archipelagic State Claims	101
A1-8	A. Multi-Island States Not Qualified	104
	B. Dependent Territories	104
A1-9	States With Acceptable Archipelagic Ratios	105
A1-10	Contiguous Zone Claims	106
A1-11	Illegal Security Zones	108

CHAPTER 2 INTERNATIONAL STATUS AND NAVIGATION OF WARSHIPS AND MILITARY AIRCRAFT

2.1	STATUS OF WARSHIPS	109
2.1.1	Warship Defined	109
2.1.2	International Status	110
2.1.3	Auxiliaries	112
2.2	STATUS OF MILITARY AIRCRAFT.	114
2.2.1	Military Aircraft Defined	114
2.2.2	International Status	114
2.2.3	Military Contract Aircraft	115
2.3	NAVIGATION IN AND OVERFLIGHT OF NATIONAL WATERS	115
2.3.1	Internal Waters	115
2.3.2	Territorial Seas	116
2.3.3	International Straits	121
2.3.4	Archipelagic Waters	127
2.4	NAVIGATION IN AND OVERFLIGHT OF INTERNATIONAL WATERS.	129
2.4.1	Contiguous Zones.	129
2.4.2	Exclusive Economic Zones	129
2.4.3	High Seas.	131
2.4.4	Declared Security and Defense Zones	132
2.4.5	Polar Regions.	134
2.4.6	Nuclear Free Zones	136
2.5	AIR NAVIGATION	138
2.5.1	National Airspace	138
2.5.2	International Airspace	140
2.6	EXERCISE AND ASSERTION OF NAVIGATION AND OVERFLIGHT RIGHTS AND FREEDOMS	143

2.7	RULES FOR NAVIGATIONAL SAFETY FOR VESSELS AND AIRCRAFT	146
2.7.1	International Rules	146
2.7.2	National Rules	146
2.7.3	Navigational Rules for Aircraft.	147
2.8	U.S.-U.S.S.R. AGREEMENT ON THE PREVENTION OF INCIDENTS ON AND OVER THE HIGH SEAS	147
2.9	MILITARY ACTIVITIES IN OUTER SPACE. . .	149
2.9.1	Outer Space Defined	149
2.9.2	The Law of Outer Space	149
2.9.3	International Agreements on Outer Space Activities	151
2.9.4	Rescue and Return of Astronauts	153
2.9.5	Return of Outer Space Objects	154

ANNEXES

A2-1	ALPACFLT 016/94: Sovereign Immunity Policy . .	155
A2-2	Joint US/USSR Territorial Sea Statement	161
A2-3	Policy on Exercise of the Right of Assistance Entry	163
A2-4	CJCSI 2410.01A: Guidance for The Exercise of Right of Assistance Entry	165
A2-5	NAVJAG MSG 061630Z Jun 88: Guidance on Transit Passage	175
A2-6	Draft MSG on Transit Passage Policy	179
A2-7	U.S. Freedom of Navigation Program	186
A2-8	Navigation Rights & the Gulf of Sidra	188

FIGURES

2-1	A Designated Archipelagic Sea Lane	129
A2-1	Danish Straits	190
A2-2	Strait of Gibraltar	191
A2-3	Strait of Bab El Mandeb	192

	<i>Page No.</i>
A2-4 Strait of Hormuz	193
A2-5 Strait of Malacca	194
A2-6 Strait of Tiran	195
A2-7 Canadian Arctic	196
A2-8 Northwest Passage	197
A2-9 Latin American Nuclear-Free Zone	198
A2-10 South Pacific Nuclear-Free Zone	199
A2-11 African Nuclear-Weapon-Free Zone	200
A2-12 Gulf of Sidra	201

TABLES

A2-1 Restrictions on Warship Innocent Passage	202
A2-2 Straits Between an Island & Mainland	204
A2-3 Straits Regulated by Long-standing Conventions . .	205
A2-4 Straits Not Connecting High Seas/EEZ	206
A2-5 International Straits: Least Width	207
A2-6 Straits Less Than 24NM but with Adjacent High Seas Route	209
A2-7 States with EEZ Claims Inconsistent with 1982 LOS Convention	210
A2-8 EEZ Proclamations Regarding Navigation	211

CHAPTER 3 PROTECTION OF PERSONS AND PROPERTY AT SEA AND MARITIME LAW ENFORCEMENT

3.1 INTRODUCTION	213
3.2 RESCUE, SAFE HARBOR, AND QUARANTINE	213
3.2.1 Assistance to Persons, Ships, and Aircraft in Distress. .	214
3.2.2 Safe Harbor	215
3.2.3 Quarantine	216
3.3 ASYLUM AND TEMPORARY REFUGE	216
3.3.1 Asylum	216
3.3.2 Temporary Refuge	219
3.3.3 Inviting Requests for Asylum or Refuge	220

3.3.4	Protection of U.S. Citizens	220
3.4	RIGHT OF APPROACH AND VISIT	221
3.5	REPRESSION OF PIRACY	221
3.5.1	U.S. Law	222
3.5.2	Piracy Defined	222
3.5.3	Use of Naval Forces to Repress Piracy	225
3.6	PROHIBITION OF THE TRANSPORT OF SLAVES	226
3.7	SUPPRESSION OF UNAUTHORIZED BROADCASTING.	227
3.8	SUPPRESSION OF INTERNATIONAL NARCOTICS TRAFFIC.	227
3.9	RECOVERY OF GOVERNMENT PROPERTY LOST AT SEA	228
3.10	PROTECTION OF PRIVATE AND MERCHANT VESSELS AND AIRCRAFT, PRIVATE PROPERTY, AND PERSONS	228
3.10.1	Protection of U.S. Flag Vessels and Aircraft, U.S. Nationals and Property.	229
3.10.2	Protection of Foreign Flag Vessels and Aircraft, and Persons	230
3.10.3	Noncombatant Evacuation Operations (NEO)	231
3.11	MARITIME LAW ENFORCEMENT	231
3.11.1	Jurisdiction to Proscribe	232
3.11.2	Jurisdiction to Enforce	234
3.11.3	Limitations on the Exercise of Maritime Law Enforcement Jurisdiction	240
3.11.4	Counterdrug Operations	244
3.11.5	Use of Force in Maritime Law Enforcement	245
3.11.6	Other Maritime Law Enforcement Assistance. . . .	246

TABLES

A3-1	Maritime Counterdrug/Alien Migrant Interdiction Agreements	247
------	---	-----

**CHAPTER 4 SAFEGUARDING OF U.S. NATIONAL
INTERESTS IN THE
MARITIME ENVIRONMENT**

4.1	INTRODUCTION	249
4.1.1	Charter of the United Nations	250
4.2	NONMILITARY MEASURES.	254
4.2.1	Diplomatic	254
4.2.2	Economic.	256
4.2.3	Judicial	257
4.3	MILITARY MEASURES.	257
4.3.1	Naval Presence	258
4.3.2	The Right of Self-Defense.	259
4.4	INTERCEPTION OF INTRUDING AIRCRAFT	265

ANNEXES

A4-1	United Nations Peace-keeping Operations	267
A4-2	President's Letter of Instruction	272
A4-3	JCS Standing Rules of Engagement	277

TABLES

A4-1	States That Ratified Amendment to the Convention On International Civil Aviation	286
------	---	-----

PART II—LAW OF NAVAL WARFARE**CHAPTER 5 PRINCIPLES AND SOURCES OF THE LAW
 OF ARMED CONFLICT**

5.1	WAR AND THE LAW	289
5.2	GENERAL PRINCIPLES OF THE LAW OF ARMED CONFLICT	290
5.3	COMBATANTS AND NONCOMBATANTS. . .	296
5.4	SOURCES OF THE LAW OF ARMED CONFLICT	297
5.4.1	Customary Law	297
5.4.2	International Agreements	299
5.5	RULES OF ENGAGEMENT	305

ANNEXES

A5-1	Letter of Transmittal & Letter of Submittal	306
------	---	-----

FIGURES

A5-1	Spectrum of Conflict	314
------	--------------------------------	-----

TABLES

A5-1	Parties to the Geneva Conventions and Their Additional Protocols	315
------	---	-----

CHAPTER 6 ADHERENCE AND ENFORCEMENT

6.1	ADHERENCE TO THE LAW OF ARMED CONFLICT	323
6.1.1	Adherence by the United States	324
6.1.2	Department of the Navy Policy	324

6.1.3	Command Responsibility	327
6.1.4	Individual Responsibility	328
6.2	ENFORCEMENT OF THE LAW OF ARMED CONFLICT	329
6.2.1	The Protecting Power.	333
6.2.2	The International Committee of the Red Cross (ICRC)	334
6.2.3	Reprisal.	335
6.2.4	Reciprocity	342
6.2.5	War Crimes Under International Law	343

ANNEXES

A6-1	Reportable Violations	359
A6-2	Rules for Combatants	362

CHAPTER 7 THE LAW OF NEUTRALITY

7.1	INTRODUCTION	365
7.2	NEUTRAL STATUS.	367
7.2.1	Neutrality Under the Charter of the United Nations	368
7.2.2	Neutrality Under Regional and Collective Self-Defense Arrangements	370
7.3	NEUTRAL TERRITORY.	370
7.3.1	Neutral Lands	371
7.3.2	Neutral Ports and Roadsteads	371
7.3.3	Neutral Internal Waters	374
7.3.4	Neutral Territorial Seas	375
7.3.5	Neutral International Straits	377
7.3.6	Neutral Archipelagic Waters	378
7.3.7	Neutral Airspace	379
7.4	NEUTRAL COMMERCE.	380
7.4.1	Contraband	381

7.4.2	Certificate of Noncontraband Carriage	385
7.5	ACQUIRING ENEMY CHARACTER	385
7.5.1	Acquiring the Character of an Enemy Warship or Military Aircraft	386
7.5.2	Acquiring the Character of an Enemy Merchant Vessel or Civil Aircraft.	387
7.6	VISIT AND SEARCH	387
7.6.1	Procedure for Visit and Search.	388
7.6.2	Visit and Search by Military Aircraft	389
7.7	BLOCKADE	390
7.7.1	General.	390
7.7.2	Traditional Rules	390
7.7.3	Special Entry and Exit Authorization.	392
7.7.4	Breach and Attempted Breach of Blockade.	392
7.7.5	Contemporary Practice	393
7.8	BELLIGERENT CONTROL OF THE IMMEDIATE AREA OF NAVAL OPERATIONS	394
7.8.1	Belligerent Control of Neutral Communications at Sea.	394
7.9	EXCLUSION ZONES AND WAR ZONES	395
7.10	CAPTURE OF NEUTRAL VESSELS AND AIRCRAFT	396
7.10.1	Destruction of Neutral Prizes	397
7.10.2	Personnel of Captured Neutral Vessels and Aircraft	398
7.11	BELLIGERENT PERSONNEL INTERNED BY A NEUTRAL GOVERNMENT	399

FIGURES

A7-1	Reciprocal Rights and Duties	400
------	--	-----

CHAPTER 8 THE LAW OF TARGETING

8.1	PRINCIPLES OF LAWFUL TARGETING	401
8.1.1	Military Objectives	402
8.1.2	Civilians and Civilian Objects	403
8.1.3	Environmental Considerations	405
8.2	SURFACE WARFARE	407
8.2.1	Enemy Warships and Military Aircraft	407
8.2.2	Enemy Merchant Vessels and Civil Aircraft.	408
8.2.3	Enemy Vessels and Aircraft Exempt From Destruction or Capture	412
8.3	SUBMARINE WARFARE.	419
8.3.1	Interdiction of Enemy Merchant Shipping by Submarines	419
8.3.2	Enemy Vessels and Aircraft Exempt From Submarine Interdiction.	421
8.4	AIR WARFARE AT SEA	421
8.4.1	Enemy Vessels and Aircraft Exempt From Aircraft Interdiction.	422
8.5	BOMBARDMENT	422
8.5.1	General Rules.	423
8.5.2	Warning Before Bombardment	427
8.6	LAND WARFARE.	428
8.6.1	Targeting in Land Warfare.	428
8.6.2	Special Protection	428

ANNEXES

A8-1	ICRC Guidelines for Military Manuals.	430
------	---	-----

CHAPTER 9 CONVENTIONAL WEAPONS AND WEAPONS SYSTEMS

9.1	INTRODUCTION	437
9.1.1	Unnecessary Suffering	438
9.1.2	Indiscriminate Effect.	440
9.2	NAVAL MINES	441
9.2.1	Current Technology	442
9.2.2	Peacetime Mining.	442
9.2.3	Mining During Armed Conflict	443
9.3	LAND MINES	448
9.4	TORPEDOES	451
9.5	CLUSTER AND FRAGMENTATION WEAPONS	451
9.6	BOOBY TRAPS AND OTHER DELAYED ACTION DEVICES	451
9.7	INCENDIARY WEAPONS	452
9.8	DIRECTED ENERGY DEVICES	452
9.9	OVER-THE-HORIZON WEAPONS SYSTEMS	454

ANNEXES

A9-1	Letter of Transmittal.	455
------	--------------------------------	-----

CHAPTER 10 NUCLEAR, CHEMICAL, AND BIOLOGICAL WEAPONS

10.1	INTRODUCTION	459
------	------------------------	-----

	<i>Page No.</i>
10.2 NUCLEAR WEAPONS	459
10.2.1 General	459
10.2.2 Treaty Obligations	461
10.3 CHEMICAL WEAPONS.	466
10.3.1 Treaty Obligations	466
10.3.2 Riot Control Agents	473
10.3.3 Herbicidal Agents	476
10.4 BIOLOGICAL WEAPONS.	477
10.4.1 Treaty Obligations	478
10.4.2 United States Policy Regarding Biological Weapons	478
 CHAPTER 11 NONCOMBATANT PERSONS	
11.1 INTRODUCTION	481
11.2 PROTECTED STATUS	481
11.3 THE CIVILIAN POPULATION	482
11.4 THE WOUNDED, SICK, AND SHIPWRECKED	484
11.5 MEDICAL PERSONNEL AND CHAPLAINS . . .	486
11.6 PARACHUTISTS	488
11.7 PRISONERS OF WAR	489
11.7.1 Trial and Punishment	492
11.7.2 Labor	493
11.7.3 Escape	493
11.7.4 Temporary Detention of Prisoners of War, Civilian Internees, and Other Detained Persons Aboard Naval Vessels	494
11.8 INTERNED PERSONS	495

11.9	PROTECTIVE SIGNS AND SYMBOLS	496
11.9.1	The Red Cross and Red Crescent	496
11.9.2	Other Protective Symbols	497
11.9.3	The 1907 Hague Symbol	498
11.9.4	The 1954 Hague Convention Symbol	498
11.9.5	The White Flag	499
11.9.6	Permitted Use.	499
11.9.7	Failure to Display	499
11.10	PROTECTIVE SIGNALS	500
11.10.1	Radio Signals	500
11.10.2	Visual Signals	500
11.10.3	Electronic Identification	500
11.11	IDENTIFICATION OF NEUTRAL PLATFORMS	501

ANNEXES

A11-1	Code of Conduct	502
-------	---------------------------	-----

FIGURES

11-1	Protective Signs and Symbols	503
------	--	-----

CHAPTER 12 DECEPTION DURING ARMED CONFLICT

12.1	GENERAL	507
12.1.1	Permitted Deceptions	507
12.1.2	Prohibited Deceptions.	509
12.2	MISUSE OF PROTECTIVE SIGNS, SIGNALS, AND SYMBOLS	510
12.3	NEUTRAL FLAGS, INSIGNIA, AND UNIFORMS	511
12.3.1	At Sea	511
12.3.2	In the Air	512

	<i>Page No.</i>
12.3.3 On Land	512
12.4 THE UNITED NATIONS FLAG AND EMBLEM	512
12.5 ENEMY FLAGS, INSIGNIA, AND UNIFORMS	512
12.5.1 At Sea	512
12.5.2 In the Air	513
12.5.3 On Land	513
12.6 FEIGNING DISTRESS.	514
12.7 FALSE CLAIMS OF NONCOMBATANT STATUS	514
12.7.1 Illegal Combatants.	515
12.8 SPIES.	515
12.8.1 Legal Status	516
INDEX	517